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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,018	11/25/2003	Masanobu Nishimaki	280A 3421-CIP-11	7002
3713	7590	11/26/2008		
QUINN EMANUEL KODA & ANDROLIA 865 S. FIGUEROA STREET, 10TH FLOOR LOS ANGELES, CA 90017			EXAMINER TROTTER, SCOTT S	
			ART UNIT 3694	PAPER NUMBER
			MAIL DATE 11/26/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/722,018	<b>Applicant(s)</b> NISHIMAKI, MASANOBU	
	<b>Examiner</b> SCOTT S. TROTTER	<b>Art Unit</b> 3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 1-7, 16, 17 and 23-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-15, 18, and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Status of the Claims***

1. This action is in response to the response filed on August 14, 2008. Claims 8-15, 18, and 19 are pending and examined. Claims 1-7, 16, 17, and 23-35 have been withdrawn previously. Claims 20-22 are canceled.

### ***Response to Arguments***

2. Applicant's arguments filed August 14, 2008 have been fully considered but they are moot due to new grounds of rejection necessitated by applicant's amendment.
3. Regarding the claim objections the amendments fixed those problems.
4. It is also noted that the applicant has updated the status of all priority applications.
5. The provisional double patenting rejection is withdrawn since the other application was abandoned.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

7. Claims 8, 9, 18, and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Stallaert et al (U.S. Patent 7,124,106 B1 hereafter Stallaert).

As per claim 8 Stallaert teaches:

A financial transaction server for supporting a financial transaction executed by a plurality of client terminals of users including a prospective capital raiser that desires to perform capital raising and a plurality of prospective capital managers that desire to perform capital management,

wherein:

(I) the financial transaction server is connected to a financial transaction database storing data regarding financial transactions and to each of the plurality of client terminals; (*see Figure 7. The bundle trading processor is the server, the limit order table is the database, the web client represents the client terminals.*)

(II) a prospective capital raiser X desires to perform capital raising by means of a financial instrument A;

(III) the financial instrument A can be unbundled into at least a constituent B and a constituent C;

(IV) a prospective capital manager Y desires to perform capital management by means of the constituent B;

(V) a prospective capital manager Z desires to perform capital management by means of the constituent C; (*see column 1 line 18-column 2 line 61, that it applies to securities see column 2 lines 31-44*) and

(VI) (i) a capital raising order x is stored in the financial transaction database, the capital raising order x being sent from a client terminal of the prospective capital raiser X, and having order information specified by the client terminal that includes a desired capital raising numerical value XA on the financial instrument A; (*see column 2*

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*lines 65-column 3 line 1.* The bundle to be acquired is the price of the bundle being sought to be disposed of. *See column 1 lines 56-59.* Assets to be traded include money)

(ii) a capital management order y is stored in the financial transaction database, the capital management order v being sent from a client terminal of the prospective capital manager Y, and having order information specified by the client terminal that includes a desired capital management numerical value YB on the constituent B: (*see column 1 line 18-column 2 line 61, that it applies to securities see column 2 lines 31-44*) and

(iii) a capital management order z is stored in the financial transaction database, the capital management order z being sent from a client terminal of the prospective capital manager Z, and having order information specified by the client terminal that includes a desired capital management numerical value ZC on the constituent C, and wherein said financial transaction server:

(a) compares the capital raising order x, the capital management order y and the capital management order z as objects of matching in the financial transaction database, and determines whether or not a match exists between:

(1) the desired capital raising numerical value XA; and

(2) the desired capital management numerical value YB and the desired capital management numerical value ZC; and

(b) executes the financial transaction between the capital raising order x, the capital management order Y and the capital management order z in a case where it is determined that the match exists. (*see column 2 lines 47-61.* Recombining assets is

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the taking of assets being disposed from different bundles to meet the bundle acquires needs.)

As per claim 9 Stallaert teaches:

A financial transaction server for supporting a financial transaction executed by a plurality of client terminals of users including a plurality of prospective capital raisers that desire to perform capital raising and a prospective capital manager that desires to perform capital management, wherein:

(I) the financial transaction server is connected to a financial transaction database storing data regarding financial transactions and to each of the plurality of client terminals; (*see Figure 7. The bundle trading processor is the server, the limit order table is the database, the web client represents the client terminals.*)

(II) a prospective capital raiser X desires to perform capital raising by means of a financial instrument B;

(III) a prospective capital raiser Y desires to perform capital raising by means of a financial instrument C;

(IV) at least the financial instrument B and the financial instrument C can be bundled into a hybrid product A;

(V) a prospective capital manager Z desires to perform capital management by means of the hybrid product A; (*see column 1 line 18-column 2 line 61, that it applies to securities see column 2 lines 31-44*) and

(VI) (i) a capital raising order x is stored in the financial transaction database, the capital raising order x being sent from a client terminal of the prospective capital raiser X, and

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having order information specified by the client terminal 'that includes a desired capital raising numerical value XB on the financial instrument B; (*see column 2 lines 65-column 3 line 1*). The bundle to be acquired is the price of the bundle being sought to be disposed of. *See column 1 lines 56-59*. Assets to be traded include money)

(ii) a capital raising order y is stored in the financial transaction database, the capital raising order y being sent from a client terminal of the prospective capital raiser Y, and having order information specified by the client terminal that includes a desired capital raising numerical value YC on the financial instrument C; (*see column 1 line 18-column 2 line 61, that it applies to securities see column 2 lines 31-44*) and

(iii) a capital management order z is stored in the financial transaction database, the capital management order z being sent from a client terminal of the prospective capital manager Z, and having order information specified by the client terminal that includes a desired capital management numerical value ZA on the hybrid product A. and wherein said financial transaction server:

(a) compares the capital raising order x, the capital raising order Y and the capital management order z as objects of matching in the financial transaction database, and determines whether or not a match exists between:

(1) the desired capital raising numerical value VB and the desired capital raising numerical value VC; and

(2) the desired capital management numerical value ZA; and

(b) executes the financial transaction between the capital raising order x, the capital raising order y and the capital management order z in a case where it is

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determined that the match exists. (*see column 2 lines 47-61*. Recombining assets is the taking of assets being disposed from different bundles to meet the bundle acquires needs.)

As per claims 18 and 19 Stallaert teaches the trading of equities and other assets. (*see column 1 lines 55-59 and column 2 lines 30-35*)

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stallaert in view of Silverman et al. (U.S. Patent 5,924,082 hereafter Silverman).

As per claim 10 while Stallaert does not specifically address negotiated transactions establishing contact between the two parties to the transaction for negotiating the orders Silverman taught negotiating the orders to other terminals to give them the chance to negotiate over the proffered terms making a trade. (*see Silverman abstract*) Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to disclose the bids to other terminals to encourage trading.



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10. Claims 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stallaert in view of Shkedy (U.S. Patent 6,236,972 B1) and Official Notice.

While Stallaert does not explicitly address providing self introduction materials or proposal information the information o the bundles available would qualify as capital management reference data. Shkedy teaches storing the prospectuses (*see Shkedy column 10 lines 1-2*) which would qualify as the capital raiser introduction and the proposal. Official Notice is taken that it is old and well known in the art of finance for investors to have introducing materials historically a letter of introduction from a rich noble evolved into a letter of credit from a bank to signify that an individual had the capital to complete a bigger deal than their cash on hand would indicate. Therefore it would have been obvious to a person of ordinary skill in the art of raising capital to have references describing the assets and liabilities being traded and those doing the trading to make sure that they can meet the obligations the are creating.

11. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stallaert in view of Official Notice.

As per claims 11-14 while Stallaert does not specifically address settlement it is old and well known in the art of electronic trading to store settlement information in a database that includes funds account numbers, fund account balances, and margin requirements. An obvious examples are E\*trade and Instinet (*see column 1 lines 18-30*) but any electronic brokerage would require such a settlement system to complete trades (a cited example is Shkedy column 10 which may be evidentiary support for settlement). Stallaert does include database tracking each bundle and does notify each

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bidder when their bundle is traded. Therefore it would have been obvious to a user of ordinary skill in the art at the time the invention was made to include a settlement system to finalize trades made on the system.

### ***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

13. Examiner's Note: The Examiner has cited particular columns and line numbers in the references as applied to the claims for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the

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responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

14. Any inquiry concerning this communication from the examiner should be directed to Scott S. Trotter, whose telephone number is 571-272-7366. The examiner can normally be reached on 8:30 AM – 5:00 PM, M-F.

15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell, can be reached on 571-272-6712.

16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

17. The fax phone number for the organization where this application or proceeding is assigned are as follows:

(571) 273-8300 (Official Communications; including After Final  
Communications labeled "BOX AF")

(571) 273-6705 (Draft Communications)

sst  
11/27/2008

/James P Trammell/  
Supervisory Patent Examiner, Art Unit 3694